

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HERBERT LOPEZ,)
ID # 01824978,)
Petitioner,)
vs.) No. 3:15-CV-3856-N (BH)
)
LORIE DAVIS, Director,)
Texas Department of Criminal)
Justice, Correctional Institutions Division,)
Respondent.) Referred to U.S. Magistrate Judge

**RECOMMENDATION REGARDING REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

By *Amended Miscellaneous Order No. 6* (adopted by *Special Order No. 2-59* on May 5, 2005), requests to proceed *in forma pauperis* are automatically referred. Before the Court is the petitioner's movant's *Motion for Leave to Proceed In Forma Pauperis on Appeal*, received in the Fifth Circuit Court of Appeals on March 26, 2018, and forwarded to this court (doc. 17).

The motion to proceed *in forma pauperis* on appeal did not include a certificate of inmate trust account for the sixth-month period preceding the filing of the notice of appeal, as required by 28 U.S.C. § 1915(a)(2). On March 29, 2018, the petitioner was ordered to submit a form application to proceed *in forma pauperis* and include a certificate of inmate trust account within thirty days of the order. (*See* doc. 18.) He was informed that if he did not comply, a recommendation to deny the motion to proceed *in forma pauperis* on appeal would be entered. (*See id.*)

More than thirty days from the date of the order have passed, but the petitioner has not complied with the order or otherwise responded. Because he has not provided a certificate of inmate trust account as required by 28 U.S.C. § 1915(a)(2), he has not shown that he is a pauper. Accordingly, the motion to proceed *in forma pauperis* on appeal (doc. 17) should be **DENIED**.

If the Court denies the request to proceed *in forma pauperis* on appeal, the petitioner

may challenge that denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). See Fed. R. App. P. 24(a)(5).

SIGNED this 7th day of May, 2018.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE